

## REMARKS

Claims 1 – 6 are pending and were rejected in the Office Action as being unpatentable over the combination of U.S. Patent No. 6,385,594 to Lebda et al. (“Lebda”) in view of U.S. Patent No. 5,995,947 to Fraser (“Fraser”). The Abstract was objected to as containing over 150 words. The Abstract has been amended to overcome this objection. The drawings were objected to and Replacement drawings are provided herewith. Applicant respectfully traverses the rejection of claims 1 – 6 on the following grounds.

A brief review of the rejections and responses of the present application to date is in order. In the three year history of the present application, the following rejections of claim 1 have been made and withdrawn:

Rejection	Status
Anticipated by Fraser	This rejection was made in the Office Action dated Nov. 7, 2002. This rejection was withdrawn in the following the Office Action dated Aug. 5, 2003, based upon new grounds of rejection.
Anticipated by Lebda	This rejection was made in the Office Action dated Aug. 5, 2003 and in the Final Office Action dated Feb. 24, 2004. <u>This rejection was withdrawn, with Examine conceding that Applicants’ arguments distinguishing over Lebda were persuasive</u> , and raising completely new grounds of rejection.
Anticipated by Dykes	This rejection was made in the Office Action dated Aug. 24, 2004 and in the Final Office Action dated Mar. 25, 2005. This rejection was withdrawn in the following Office Action dated Sep. 29, 2005, based upon different grounds of rejection.
Obvious over Lebda in view of Fraser	This rejection was made in the Office Action dated Sep. 29, 2005. The Office Action fails to acknowledge, however, that the rejection based upon Lebda was previously withdrawn based upon “persuasive” arguments demonstrating numerous distinguishing claim elements.

In summary, claim 1 has previously been rejected as being anticipated by Lebda – which rejection was withdrawn by Examiner based upon the “persuasive” arguments raised by Applicant (including the arguments made in Applicants’ Response of Nov. 20, 2003 and Response of Apr. 22, 2004). For Examiner’s convenience, attached Exhibit A provides a summary of the numerous grounds of rejection that have been made and withdrawn during the pendency of this application, and the numerous responses that have been made by Applicant overcoming the various grounds of rejection.

The Office Action interprets Lebda in a manner that has been previously traversed by Applicant and has been previously dropped by Examiner as being deficient (see Office Action dated Aug. 24, 2004). Nothing in the present Office Action and nothing in Fraser overcomes the numerous deficiencies in Lebda that were pointed out in Applicants’ previous responses. In fact, the present Office Action fails to even acknowledge the numerous arguments regarding Lebda, which Examiner has previously conceded were persuasive and which gave rise to the withdrawal of Lebda as an invalidating reference. The addition of Fraser – which has also been previously withdrawn as an invalidating reference – fails to teach or suggest the numerous features that are lacking in Lebda.

For the sake of completeness, Applicant hereby provides the following arguments that Examiner has previously conceded are sufficient to distinguish the presently pending claims over Lebda and Fraser.

### ***The Claims are Patentable Over Lebda***

As an initial matter, claim 1 relates to a method to facilitate “information exchange between a broker and a set of wholesale lenders.” Although Applicant’s invention may be broad enough to include individual borrowers dealing with retail lenders, presently pending claim 1 is directed to a “broker” and “wholesale lenders.” By contrast, Lebda relates to a retail lender system in which the lender interfaces directly with the borrower, to the exclusion of a broker (see, e.g., column 1, lines 34-44; column 2, line 65 through column 3, line 8; and column 4, lines 1-7). Lebda fails to teach or suggest a “broker.”

Claim 1 also requires “displaying to the broker a set of one or more generic mortgage lender profiles.” Examiner has asserted that Figure 7 of Lebda discloses this element. For the sake of argument (although without agreeing to this point), Applicant will assume herein that the borrower of Lebda satisfies the claim element of a broker. Lebda nonetheless fails to

teach the recited claim element, however. Lebda describes Figure 7 at column 4, line 42 – column 5, line 8:

FIGS. 6, 7, and 8 show stage 6 of the process, wherein computer 100 runs a filter to match completed application 115 in table 150 against preset criteria established by each lender. As shown in FIG. 6, lender criteria are stored in tables 175 in lender database 170 on computer 100. Wherein in FIG. 7 lender database 170 includes a listing of tables 175 for several lending institutions. The process for matching borrower's application in tables 150 to lender criteria in tables 175 is shown in FIG. 8. For example, in step 35, program 10 starts the filter process. Next, in step 36, the filter process initiates and moves to the appropriate type application 115 in tables 150. Next, in step 37 the filter moves to a first lending institution in table 175. In step 38, program 10 instructs computer 100 to read all of the lending institution's criteria for extending credit. In step 39, program 10 reads whether there are any criteria present in tables 175. If the requested data is not present, next, in step 45 the filter checks to see if there is any database connection that is broken and whether the database information in the message. If the criteria are present, step 40 instructs computer 100 to see whether any remaining criteria to match to application 115 stored on tables 150.

If there are more criteria to match to application 115, then in step 47, program 10 checks to see whether that remaining criteria matches with application 115. If the criteria matches with application 115 then in step 58, program 10 advances to the next available criteria in tables 175. As shown in FIG. 6, step 58 creates a loop back to step 40. If the criteria does not match with application 115, then in step 48, program 10 checks to see whether there is another lending institution in database 170. If there are no remaining lending institutions in database 170 then in step 59, computer 100 generates a message that no acceptable match has been found. After this message, in step 51, the filter process ends.

Nowhere does Lebda teach or suggest that the tables 175 would be displayed to a broker, or for that matter to the “borrower-Internet user” of Lebda.

Claim 1 further requires “responsive to selection by the broker of one of the specific wholesale lenders, exposing to the broker a specific mortgage lender profile.” Applicant has carefully reviewed the portions of Lebda that Examiner has asserted teach this claim limitation (Abstract, Figure 12, and column 5, lines 26-33). In response, Applicant respectfully traverses the rejection. Lebda clearly teaches that the broker (again assuming Lebda teaches a broker, which it does not) does not select a specific wholesale lender. Rather, the selection process “is based upon either random selection or a predetermined set of criteria stored in computer 100” (column 5, lines 32-34, emphasis added).

It would not be obvious to modify Lebda to obtain Applicants' claimed invention. First, as explained above, currently pending claim 1 is directed to an interface between a broker and wholesale lenders. Lebda, by contrast, is directed to a borrower-user interfacing directly with lenders. Second, and partially because Lebda does not contemplate a broker, there is no motivation to modify Lebda to expose the user to generic mortgage lender profiles. This is because the lender selection process occurs on a remote computer (per column 3, lines 54-61). Additionally, there is no motivation to replace the random or pre-determined criteria selection process of Lebda with the broker selection process of claim 1. Again, this is partly because Lebda does not contemplate a broker and also because Lebda teaches that the filtering and selection process is done "remotely" from the user. In essence, Lebda teaches away from lender selection by a broker.

Examiner has asserted that the recited claim element of exposing to the broker "a set of one or more generic lender profiles" is met by Lebda because Lebda teaches, "the matching of certain lending institutions that meet the criteria set by the user." In other words (and assuming solely for the sake of argument that the user in Lebda is a broker, which in fact it is not), Lebda teaches exposing the "broker" to each and every specific lender that is available and comparing the applicant's information against each and every specific lender. By stark contrast, Applicants' application teaches the novel concept of a "generic" lender profile that eliminates the need to compare the applicant's information against each and every specific lender.

While Applicants' invention is not limited to the illustrated embodiments, reference to Figure 3 of Applicants' application may perhaps assist in putting the claims in context. As shown in Figure 3, there are numerous wholesale lenders 306, each of which has specific lending criteria. Note that every specific wholesale lender's profile is not presented to the broker 304. Rather, only a single generic wholesale lender profile 302 is presented to the broker. By presenting only a generic wholesale lender profile(s) to the broker, the selection process can be greatly simplified.

On the other hand, Lebda relies upon brute force processing to compare the applicant's information against each and every specific lending institution that is available, as taught in Figures 7 and 8 and at column 4, line 42 through column 5, line 34. Examiner has failed to identify and Applicant is unaware of any teaching or suggestion in Lebda of exposing to the broker "one or more generic lender profiles."

Assuming, again solely for the sake of argument, that Figure 7 and related text of Lebda teach exposing a broker to "one or more generic profiles," then Applicant respectfully asks where then does Lebda teach or suggest "exposing to the broker a specific mortgage lender profile" as required by claim 1? In a prior Office Action, Examiner cited to Figure 12 and to column 5, lines 26-33 of Lebda as showing this claim element. Note, however, that the cited Figure and text simply teach forwarding the borrower's application to a limited number of lending institutions. It does not teach exposing a broker to specific lender information/profiles.

For the same reasons as provided above, nothing in Lebda teaches or suggests displaying to a broker mortgage rates and prices. First, as explained above with reference to claim 1, Lebda teaches a system in which borrowers and lenders communicate directly, and hence does not contemplate a broker. Second, as explained above with reference to claim 4, the "filtering criteria" of Lebda occurs on a remote computer 100. Even assuming for the sake of argument that "including rates and prices as part of the filtering criteria is old and well known in the art," as Examiner has asserted, Lebda teaches that this process occurs on remote computer 100, and nowhere teaches or suggests that the criteria are displayed to the borrower. Hence, Lebda does not teach or suggest "displaying" rates and prices to a broker.

### ***The Claims are Patentable Over Fraser***

Claim 1 requires "exposing to the broker a set of one or more generic mortgage lender profiles." Examiner has asserted that this element is disclosed in Fraser at col. 15, lines 8 - 14 and Figure 2. Applicant has carefully reviewed the cited portions of the reference and find no teaching or suggestion of "generic mortgage lender profiles." Rather, the cited portions discuss "entering bids on a loan application" and reviewing the "status of loan applications."

While Applicant agrees that the bids and loan applications discussed by Fraser are relevant (although not necessary) to the mortgage brokerage process, nothing in the cited portion teaches or suggests "generic mortgage lender profiles." As is clear from Applicants' disclosure, neither a loan application nor a bid on a loan application is a generic mortgage lender profile. As such, Fraser fails to teach or suggest the claim element and the rejection of claim 1 should be reconsidered and withdrawn.

Claim 1 also recites "responsive to entry by broker of given data, applying a given

generic mortgage lender profile to the data to identify a set of one or more specific wholesale lenders who meet criteria specified in the given data." Examiner has asserted that Fraser's col. 15, lines 15-21 and Figure 2 disclose this element. As discussed in the preceding paragraphs, however, Fraser provides no teaching or suggestion of "generic mortgage lender profiles" and hence cannot teach or suggest "applying" any such profile because none are taught.

Furthermore, Applicant has carefully reviewed the cited portions and respectfully submit that they find no teaching or suggestion in the cited portion and are unaware of any teaching or suggestion elsewhere in Fraser of identifying a set of specific wholesale lenders who meet specified criteria. Rather, Fraser discloses a process where a lender bids on a loan application - in other words, the lender reviews a loan profile and bids on it. The borrower then selects from amongst the bids. Applying selection criteria to (borrower originated) loan profiles is quite different than applying selection criteria to (lender originated) mortgage lender profiles. As such, Applicant respectfully submits that Applicant has found no suggestion - and Examiner has identified no disclosure - in Fraser to apply a generic mortgage lender profile (because Fraser does not disclose this element) to data entered by a broker in order to identify specific wholesale lenders.. Rather, Fraser approaches the flow of information between lenders and brokers from the other direction - wherein loan applications (not lender profiles) are evaluated and selected.

Finally, claim 1 recites "exposing the broker to a specific mortgage lender profile" in response to "selection by the broker" of a specific wholesale lender. Examiner has asserted that col. 15, lines 25 - 30 and Figure 2 of Fraser disclose this element. Applicant respectfully responds that the cited portions of Fraser do not, in fact, teach or suggest the claim element. Rather, Fraser discloses the lender selecting a loan application. Such a system is not the same as (in fact it is contrary to) a broker selecting a wholesale lender. As such, Fraser fails to teach or suggest the recited claim element of "exposing to the broker a specific mortgage lender profile" in response to "selection by the broker" of one "specific wholesale lender."

While Applicant recognizes that Fraser teaches one manner in which information can be exchanged between a borrower, a lender, and a mortgage broker, a careful review of the reference reveals that the method and system of Fraser approaches the information exchange in a very different manner than that disclosed and claimed by Applicant. Fraser discloses a system in which lenders select from amongst several loan applications. Fraser fails to

disclose a system in which generic mortgage lender profiles are provided to a broker and are applied to data input by the broker to identify a specific lender. Furthermore, Fraser's system does not teach or suggest providing a particular lender profile in response to the broker's selection process.

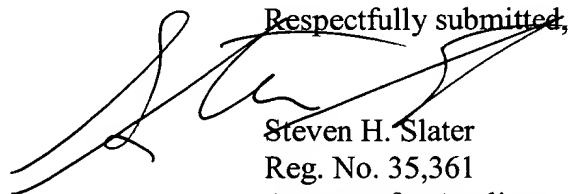
***The Claims are Patentable Over the Combination of Lebda and Fraser***

Examiner has failed to provide a *prima facie* case that the combination of Lebda and Fraser would teach or suggest to one of ordinary skill in the art any, much less each, of the above identified claim elements that are lacking in the references, either alone or in combination. This reason alone is sufficient to overcome the rejection. Furthermore, given that Lebda lacks any reference to or teaching of a "broker," Applicant further traverses the rejection on the grounds that one of ordinary skill in the art would not be motivated to combine these references. Indeed, by addressing a system in which individual borrowers deal directly with retail lenders – the very antithesis of the wholesale broker model – Lebda clearly teaches away from such a combination.

Given that, Applicant has overcome the rejection of claims 1 – 6 based upon each of the references (Fraser, Lebda, and Dykes) alone and in combination, Applicant respectfully submits that the claims are allowable over these references. A prompt indication of the allowance of claim 1 – 6 and passage of the present application to issuance is earnestly requested. Examiner is invited to contact the undersigned with any questions or to address any matters that might expedite the allowance of the present application.

No fee is believed due in connection with this filing. However, in the event that there are any fees due, please charge the same, or credit any overpayment, to Deposit Account No. 50-1065.

December 29, 2005

Respectfully submitted,  
  
Steven H. Slater  
Reg. No. 35,361  
Attorney for Applicant

Slater & Matsil, L.L.P.  
17950 Preston Rd., Suite 1000  
Dallas, TX 75252  
Tel: 972-732-1001  
Fax: 972-732-9218

## EXHIBIT A

1. Claims 1 – 6 were rejected as being anticipated by Fraser or obvious over Fraser in view of Dykes (U.S. Patent No. 6,438,526 to Dykes et al.). (Office Action dated Nov. 7, 2002).
2. Applicant identified numerous claim elements that distinguished over Fraser, both alone and in combination with Dykes. (Amendment dated May 7, 2003).
3. Claims 1 – 6 were rejected as being anticipated by Lebda or obvious over Lebda. Note the rejection based upon Fraser and Fraser/Dykes was dropped – an apparent concession that the claims are patentably distinct over these references. (Office Action dated Aug. 5, 2003).
4. Applicant identified numerous claim elements that distinguished over Lebda. (Response dated Nov. 20, 2003).
5. Claims 1 – 6 were finally rejected as being anticipated by Lebda. (Final Office Action dated Feb. 24, 2004).
6. Applicant yet again identified numerous claim elements that distinguished over Lebda. (Response dated April 22, 2004).
7. Examiner agreed that Applicants' arguments of April 22, 2004 were persuasive withdrew the rejection based upon Lebda. Examiner rejected claims 1 – 6 as being anticipated by Dykes. (Office Action dated Aug. 24, 2004).
8. Applicant identified claim elements that distinguished over Dykes. Applicant also amended claim 1 to overcome a rejection under 35 U.S.C. § 101. (Amendment dated Nov. 22, 2004).
9. Claims 1- 6 were finally rejected as being anticipated by Dykes. (Final Office Action dated Mar. 25, 2005).



10. Claim 1 was amended to further distinguish claims 1 – 6 over Dykes. (Amendment with RCE dated Jun. 27, 2005).

11. Claims 1 – 6 rejected as being anticipated by Lebda or over obvious over Lebda in view of Fraser. (Office Action dated Sep. 29, 2005).